IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 21210 of 2007(Y)

PETITIONER:

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1. S.MOHAMMED RAFFI, MATTAPPALLI HOUSE, KOLLAYIL P.O., MADATHARA, KOTTARAKKARA TALUK, KOLLAM DIST.

2. SMT.P.SUBAIDA BEEGAM, MATTAPPALLI HOUSE, NILAMEL P.O., KOTTARAKKARA TALUK, KOLLAM DIST.

3. SRI.MOHAMMED SHAJAHAN,MATTAPPALI HOUSE, NILAMEL P.O., KOTTARAKKARA TALUK, KOLLAM DIST.

4. SRI.JAHAN, MATTAPPALLI HOUSE, KOLLAYIL, MADATHARA, KOTTARAKKARA TALUK, KOLLAM DIST, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER, SRI.MOHAMMED SALIM, MATTAPPALLI HOUSE, NILAMEL P.O., KOTTARAKKARA TALUK, KOLLAM DIST.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM.

3. THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

4. THE DISTRICT EDUCATIONAL OFFICER, PUNALUR, KOLLAM DIST.

5. THE PRINCIPAL, M.M.HIGHER SECONDARY SCHOOL, NILAMEL, KOLLAM DIST.

6. G.RAJENDRAN, PRINCIPAL,
GOVERNMENT HIGHER SECONDARY SCHOOL,
ANCHAL EAST, KOLLAM DIST.

*7. SMT. HASEEMA BEEVI
D/O. SHAHUL HAMEED, NO.10, THILAK NAGAR,
NALANCHIRA, THIRUVANANTHAPURAM

*8. SMT. SHEEJA, D/O. SHAHUL HAMEED,
FEROZ MANZIL, BENGLAM KUNNU
NILAMEL P.O., KOLLAM DIST.

*9. SMT. SHEEBA, D/O. SHAHUL HAMEED,
LEON.M., DIVISION ROAD, P.M.G., THIRUVANANTHAPURAM

ADDL. RESPONDENTS 7 TO 9 ARE IMPLEADED AS PER ORDER DT. 11.7.07 IN I.A. 9509/07

BY GOVERNMENT PLEADER SMT. M.R. SREELATHA
SRI.PIRAPPANCODE V.S.SUDHIR
SRI.PRADEEP KRISHNA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 21210/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE ORDER DT.23.8.05 ISSUED BY THE GOVT.

EXT.P2. COPY OF THE COMMUNICATION DT. 28.12.85 ISSUED BY THE DEO, KOTTARAKKARA

EXT.P3. COPY OF THE BYELAWS FOR THE MANAGEMENT OF THE SCHOOL

EXT.P4. COPY OF THE APPLICATION FOR APPROVING THE 1ST PETITIONER AS CORPORATE MANAGER

EXT.P5. COPY OF THE MINUTES OF THE MEETING OF THE MANAGEMENT BOARD

EXT.P6. COPY OF THE ORDER DT. 22.3.07 ISSUED BY THE 4TH RESPONDENT

EXT.P7. COPY OF THE ORDER DT. 23.6.07 ISSUED BY THE DEPUTY DIRECTOR

EXT.P8. COPY OF THE APPEAL DT. 4TH JULY, 2007 FILED BEFORE THE 3RD RESPONDENT

EXT.P9. COPY OF THE ORDER DT. 27.6.07 ISSUED BY THE 2ND RESPONDENT

EXT.P10. COPY OF THE REPRESENTATION DT. 3.7.07 FILED BEFORE THE GOVT.

EXT.P11. COPY OF THE ORDER DT. 10.3.06 ISSUED BY THE GOVT.

EXT.P12. COPY OF THE COMMUNICATION DT. 23.12.85 OF THE DISTRICT EDUCATIONAL OFFICER, KOTTARAKKARA

EXT.P13. COPY OF THE WRITTEN STATEMENT IN O.S. NO. 135 OF 2005 FILED BEFORE THE SUB COURT, KOTTARAKKARA

RESPONDENT'S EXHIBITS:

EXT.R2(a). COPY OF THE COMPLAINT DT. 22.5.07

EXT.R2(b). COPY OF THE INSPECTION REPORT

EXT.R7(a). COPY OF THE AGREEMENT DT. 28.1.81 REGISTERED IN THE KADAKKAL SUB REGISTRAR'S OFFICE AS 347/81

EXT.R7(b). COPY OF THE PETITION DT. 25.8.06 FILED BY THE 7TH RESPONDENT BEFORE THE DEO PUNALUR

EXT.R7(c). COPY OF THE PETITION DT. 26.8.06 FILED BY THE SISTER OF THE 7TH RESPONDENT BEFORE THE DEO, PUNALUR

EXT.R7(d). COPY OF THE PETITION SUBMITTED BEFORE THE DIRECTOR OF PUBLIC INSTRUCTION

EXT.R7(e). COPY OF THE PETITION SUBMITTED BY THE 7TH RESPONDENT BEFORE THE DEPUTY DIRECTOR OF EDUCATION, KOLLAM

EXT.R7(f). COPY OF THE NOTICE NO.B4-4845/2006 DT. 19.2.2007

EXT.R7(g). COPY OF THE AGREEMENT NOTE FILED BY THE 7TH RESPONDENT BEFORE THE DEO

EXT.R7(h). COPY OF THE O.S. 135/05 PREFERED BY THE RESPONDENTS 7,8 AND 9 IN THE SUB COURT, KOTTARAKKARA

A.K. BASHEER, J.

W.P.(C). NO. 21210 OF 2007

Dated this the 23rd day of July, 2007

J U D G M E N T

The internecine dispute among the members of an educational agency has culminated in this writ petition. Reportedly, one or two civil suits are also pending before the civil court.

2. Having heard learned counsel for the parties, I am satisfied that it would be totally unnecessary to refer to the various contentions raised by the parties at this stage. Suffice it to say that the parties seem to bent upon fighting it out for their own egoistic pleasure. Be that as it may, as far as the issue involved in this writ petition is concerned, the only question that may have to be tackled immediately, is whether the students seeking admission to Plus One course in the school should be at the receiving end because of the fight in the Educational Agency.

3. By an interim order dated July 11, 2007, this Court had made it clear that the management will be entitled to complete the selection process under the management quota provisionally, and subject to further orders. It was further directed that the list of the selected candidates under that quota shall not be published and students shall not be admitted without obtaining orders from this Court.

4. From the counter affidavit of respondent No.7, it is evident that there is serious difference of opinion among the members of the

Educational Agency. It is vehemently contended by respondent No.7 that Ext.P3 (which is admittedly not a registered document) is a “forged and manipulated document” and that neither he nor Smt. Sainaba Beevi had subscribed their signature to the said document. The specific case of respondent No.7 is that neither Subaida Beegum nor Muhammed Rafi are entitled to hold the office of manager pursuant to Ext.P3 agreement. Petitioners have been refusing to convene a meeting of the legal heirs of late Shahul Hameed and late Abdul Majeed, though several requests were made. Respondent No.7 has also alleged that the controlling officer had in a way helped the petitioners by rejecting Ext.P4 application on technical grounds, in order to help petitioner No.1 to obtain orders from higher authorities. Reference has been made to some of the serious contentions raised by respondent No.7 while opposing the grant of reliefs to the petitioners in the writ petition, only to highlight the fact that the dispute is quite deep rooted and cannot be tackled quite easily. The question regarding the genuineness of Ext.P3 and the rights of the parties arising therefrom are pending before the civil court.

5. It is contended on behalf of the petitioners that the action of the Government in deputing respondent No.6, who is the Principal of another school in Kollam, to finalise the selection of students to Plus One course, is totally illegal. It is seen from Ext.P9 order issued by the Government in this regard, that respondent No.1 has been directed to prepare and publish the

list of candidates for Plus One admission in terms of the guidelines issued in the prospectus 2007-08.

6. The Government has issued the above order since there is no approved manager in the school. Therefore the Government thought it fit that it would be appropriate if an outsider is appointed to oversee the process. It was therefore that respondent No.6 was directed to fill up the entire seats in all the batches in Plus One course from open merit quota, as in the case of all Government Schools following the reservation rules. Petitioners have taken particular exception to the stipulation in Ext.P9 order that "there will be no management and community quota to plus one admission during this academic year 2007-08".

7. Ext.P11 order shows that the Government has granted minority status to the school in question. Petitioners have contended that the direction of the government in Ext.P9 that there will be no management quota for the school because of the managerial dispute, cannot be sustained at all particularly since it is a minority institution. Learned counsel for respondent No.7 submits that the decision of the Government to that extent cannot be justified. Anyhow, since the Government has granted minority status to the institution, I am of the view that the rival groups, may at least have the satisfaction that the interest of their community, does not suffer, though obviously their interests may be something else.

Therefore, I am satisfied that the seats ear marked under the management quota can be filled up from among the students belonging to the community concerned, strictly on the basis of merit of the students in that community. This shall be ensured by respondent No.6, who has been deputed by the Government for the purpose of completing the process of admission in the school.

8. It is brought to my notice that petitioners have preferred Ext.P8 representation before respondent No.3. Therefore respondent No.3 is directed to dispose of Ext.P8 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. The authority shall ensure that apart from the petitioners, respondents 7 to 9 are also afforded sufficient opportunity to be heard before any decision is taken in the matter.

The writ petition is disposed of as above.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007